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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/029,733	12/18/2001	Jeanine Picraux	10017782-1	4649

7590 08/17/2005

HEWLETT-PACKARD COMPANY  
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P.O. Box 272400  
Fort Collins, CO 80527-2400

EXAMINER
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LESNIEWSKI, VICTOR D

ART UNIT	PAPER NUMBER
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2152

DATE MAILED: 08/17/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

10/029,733

**Applicant(s)**

PICRAUX, JEANINE

**Examiner**

Victor Lesniewski

**Art Unit**

2152

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 10 May 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-24 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

**DETAILED ACTION**

1. The amendment filed 5/10/2005 has been placed of record in the file.
2. Claims 1, 12, and 23 have been amended.
3. Claims 1-24 are now pending.
4. The applicant's arguments, see pgs. 9-10 of the amendment filed 5/10/2005, with respect to the rejection of claims 1, 3-9, 11, 12, 14-20, and 22-24 under 35 U.S.C. 102(e) have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. Upon further consideration, a new grounds of rejection is made as will be discussed in detail below.

***Claim Rejections - 35 USC § 112***

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
6. Claims 2, 9-11, 13, 21, and 24 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
7. Claims 9 and 24 recite the limitation "the data link" in lines 6 and 7 respectively. There is insufficient antecedent basis for this limitation in the claim as nowhere before was a "data link" explicitly stated. Claims 10 and 11 are rejected due to their dependence on claim 9.
8. The recitation of "running the first node and the second node at two different frequencies" and the like as stated in claims 2, 10, 13, and 21 is ambiguous. It is not clear as to how the nodes are run at two different frequencies. This limitation could have multiple meanings such as the frequency at which a processor is run, the frequency of transactions, the

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type of connection, etc. In the remarks, the applicant has cited the specification in order to support clarity of these claims, however these citations are irrelevant as they are not limitations of the claims themselves.

***Claim Rejections - 35 USC § 102***

9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

10. Claims 1-24 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Grivna et al. (U.S. Patent Number 5,949,799), hereinafter referred to as Grivna.

11. Some claims will be discussed together. Those claims which are essentially the same except that they set forth the claimed invention as an alternative method, a system, or a computer-readable medium are rejected under the same rationale applied to the described claim.

12. Grivna has disclosed:

- <Claims 1, 12, and 23>

A method for transmitting information from a second node to a first node, comprising the steps of: establishing a communication link between the first node and the second node (column 2, lines 63-65); allowing one or more data transactions transmitted on the communication link between the first node and the second node (column 6, lines 25-34); identifying a data stream of a data transaction being transmitted from the second node to the first node (figure 5, "Outbound Packet"); stalling the transaction to insert the

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information into the identified data stream (column 5, lines 57-66); and resuming the transaction, thereby transmitting the information from the second node via the data stream to the first node (column 6, lines 1-6); wherein the information is not part of the data transaction when the data transaction starts from the second node to the first node (column 5, lines 1-9).

- <Claims 2, 10, 13, and 21>

The method of claim 1 further comprising the step of running the first node and the second node at two different frequencies (column 9, lines 40-52).

- <Claims 3, 11, 14, and 22>

The method of claim 1 further comprising the step of including instructions in the information for the first node to perform a task (column 3, lines 48-59).

- <Claims 4 and 15>

The method of claim 3 wherein the task includes one or a combination of resending some data, removing the first node, removing a part of the first node, restarting the first node, resetting the first node, notifying the first node, authorizing the first node (column 3, lines 48-59).

- <Claims 5 and 16>

The method of claim 1 further comprising the step of sending the information in a packet normally used for synchronizing the first node and the second node (column 3, lines 48-59).

- <Claims 6 and 17>

The method of claim 1 further comprising the step of sending the information in a packet that is not counted as part of the data stream being transmitted from the second node to the first node (column 6, lines 15-21).

- <Claims 7 and 18>

The method of claim 1 wherein the first node and the second node are selected from a group consisting of a computer system, a network device, a microprocessor, and an electronic chip (column 6, lines 25-34).

- <Claims 8 and 19>

The method of claim 1 further comprising the steps of saving the status of the transaction at the time the transaction is stalled and resuming the transaction based on the saved status (column 6, lines 1-3 and column 7, lines 12-23).

- <Claims 9, 20, and 24>

A method for transmitting information from a second node to a first node, comprising the steps of: establishing a communication link between the first node and the second node (column 2, lines 63-65); identifying a data transaction being transmitted from the second node via the data link to the first node; the data transaction including a header and a plurality of data pieces (figure 5, "Outbound Packet" and column 3, lines 8-12); the first node, based on data in the header, counting the data pieces to identify the end of the transaction (column 3, lines 19-27); stalling the data transaction to send a packet on the communication link to the first node; the packet including the information (column 5,

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lines 57-66); and the first node counting the packet as not part of the data transaction (column 6, lines 15-21).

Since all the limitations of the invention as set forth in claims 1-24 were disclosed by Grivna, claims 1-24 are rejected.

### *Conclusion*

13. The prior art made of record and not relied upon is considered pertinent to the applicant's disclosure.

- Baumann et al. (U.S. Patent Number 6,772,217) disclosed a method for determining individual and aggregate transmission bandwidths of data streams that involves pausing of a particular data stream.

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Victor Lesniewski whose telephone number is 571-272-3987.

The examiner can normally be reached on Monday through Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenton Burgess can be reached on 571-272-3949. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Victor Lesniewski  
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